

AMENDED IN ASSEMBLY APRIL 21, 2003
AMENDED IN ASSEMBLY MARCH 27, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 216

Introduced by Assembly Member Chan
(~~Coauthor: Assembly Member Lieber~~)
(Coauthors: Assembly Members Hancock, Koretz, Lieber, and
Vargas)
(Coauthor: Senator Soto)

January 29, 2003

An act to add Article 6 (commencing with Section 23500) to Chapter 3 of Division 9 of the Business and Professions Code, and to add Chapter 4.5 (commencing with Section 11759.7) to Part 1 of Division 10.5 of the Health and Safety Code, relating to alcohol recovery and prevention.

LEGISLATIVE COUNSEL'S DIGEST

AB 216, as amended, Chan. Alcohol: fee: youth alcohol recovery and prevention.

Existing law imposes various duties on the State Board of Equalization in connection with the administration of various taxes and fees.

The Alcoholic Beverage Control Act imposes various functions and duties on the Department of Alcoholic Beverage Control with respect to the sale of alcoholic beverages and related licensing matters, and requires the department to collect various fees in connection therewith. Existing law also imposes various duties on the State Department of

Alcohol and Drug Programs, including a program for the alcohol and drug treatment of adolescents.

This bill would require the ~~Department of Alcoholic Beverage Control~~ *State Board of Equalization* to collect a fee, as specified, from any beer manufacturer, distilled spirits manufacturer, beer importer, and distilled spirits importer, with specified exemptions. This bill would require the State Department of Alcohol and Drug Programs to distribute, upon appropriation, the fees to counties to fund alcohol recovery and prevention centers in this state in accordance with a specified allocation methodology. This bill would require that the centers be administered by the counties in which they are established, thereby imposing a state-mandated local program. This bill would require that all fees, and earnings thereon, be expended, upon appropriation by the Legislature, only for purposes of this bill, as specified.

This bill would become operative only if no bill from the 2003–04 Regular Session that imposes or increases any surtax on alcoholic beverages is chaptered. This bill would only be operative for years, commencing with 2005, for which the Director of Finance determines that a prudent reserve threshold is met, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 6 (commencing with Section 23500) is
2 added to Chapter 3 of Division 9 of the Business and Professions
3 Code, to read:

4
5 Article 6. Fee on Brewers and Distillers
6

7 23500. Except as provided in Section 23501, the ~~Department~~
8 ~~of Alcoholic Beverage Control~~ *State Board of Equalization* shall
9 collect a fee from any beer manufacturer, distilled spirits

1 manufacturer, beer importer, and distilled spirits importer licensed
2 pursuant to this division.

3 23501. The fee imposed by this article does not apply to, and
4 no fee imposed by this article may be assessed upon, beer
5 manufacturer licensees who produce 60,000 barrels or less a year.

6 23502. The ~~department~~ *State Board of Equalization* shall, by
7 regulation, establish specific fee amounts to be assessed on
8 licensees included in this article. To the maximum extent
9 practicable, the fees shall be assessed on the basis of both of the
10 following:

11 (a) The amount of the licensee's product that is consumed by
12 underage youth.

13 (b) The licensee's product "market share" of total alcohol
14 consumed by underage youth.

15 23503. The ~~department~~ *State Board of Equalization, in*
16 *cooperation with the Department of Alcoholic Beverage Control*
17 *or any other state agency deemed appropriate by the board,* shall
18 conduct an annual survey of youth alcohol consumption practices
19 and alcoholic beverage brand usage to support its calculation of a
20 licensee's fee amount under Section 23502.

21 23504. For the calendar year 2004, the total fee collected by
22 the ~~department~~ *State Board of Equalization* may not exceed \$100
23 million or the total retail revenues generated by underage alcohol
24 consumption as estimated by the ~~department~~ *State Board of*
25 *Equalization*, whichever is lower.

26 23505. The fees collected under this article shall be deposited
27 in the Youth Alcohol Prevention and Recovery Fund, which is
28 hereby created in the State Treasury. Moneys in the fund shall,
29 upon appropriation by the Legislature, be expended exclusively
30 for the purposes of implementing this article and Chapter 4.5
31 (commencing with Section 11759.7) of Part 1 of Division 9 of the
32 Health and Safety Code, including the ~~department's~~ *State Board*
33 *of Equalization's* costs in administering this article and the costs
34 of the State Department of Alcohol and Drug Programs in
35 administering Chapter 4.5 (commencing with Section 11579.7) of
36 Part 1 of Division 9 of the Health and Safety Code. All interest
37 earned on the moneys that have been deposited into the Youth
38 Alcohol Prevention and Recovery Fund shall be retained in that
39 fund.

23506. No fee shall be collected from a corporation if the ~~department~~ *State Board of Equalization* determines that underage drinkers did not consume that corporation's alcoholic beverage products. The intent of the corporation not to promote illegal sales of its products to underage youth may not be considered in making this determination.

23507. The fees collected pursuant to this article and Chapter 4.5 (commencing with Section 11759.7) of Part 1 of Division 9 of the Health and Safety Code, and the earnings therefrom, shall be used solely for the purposes of implementing this article and Chapter 4.5 (commencing with Section 11759.7) of Part 1 of Division 9 of the Health and Safety Code. The ~~department~~ *State Board of Equalization* may not collect fees pursuant to this section in a total amount that exceeds the amount reasonably anticipated by the ~~department~~ *State Board of Equalization* to fully implement this article and Chapter 4.5 (commencing with Section 11759.7) of Part 1 of Division 9 of the Health and Safety Code. No funds other than the fees collected under this article, including the earnings thereon, may be expended for the purposes of this article and Chapter 4.5 (commencing with Section 11759.7) of Part 1 of Division 9 of the Health and Safety Code.

23508. Regulations adopted for fee assessment and collection pursuant to this section are exempt from any review by the Office of Administrative Law as may otherwise be required by law.

SEC. 2. Chapter 4.5 (commencing with Section 11759.7) is added to Part 1 of Division 10.5 of the Health and Safety Code, to read:

CHAPTER 4.5. YOUTH ALCOHOL RECOVERY AND PREVENTION

11759.7. For purposes of this part:

(a) "Department" means the State Department of Alcohol and Drug Programs.

(b) "Youth" shall mean those individuals under 21 years of age.

(c) Except where the context requires otherwise, the definitions set forth in Division 9 (commencing with Section 23000) of the Business and Professions Code shall apply to this chapter.

11759.8. (a) The department shall establish youth alcohol recovery and prevention centers in this state and shall distribute,

upon appropriation by the Legislature, the fee revenues, including the earnings thereon, collected under Article 6 (commencing with Section 23500) of Chapter 3 of Division 9 of the Business and Professions Code, among the counties to fund those centers, in accordance with the standard allocation methodology agreed to by the department and the County Alcohol and Drug Program Administrator's Association of California, and described in the February 1997 Allocations Report to the Legislature.

(b) The centers shall be administered through the county departments of alcohol programs. The purpose of the centers is to support youth alcohol prevention, and youth recovery from problems related to alcohol consumption. A local planning process shall be utilized to develop the centers and a local youth committee shall be established to oversee the centers. The centers shall provide:

(1) Community-based youth-driven prevention activities including, but not limited to, educational support, youth mobilization, leadership development, skills assessment and development, and vocational training and job placement, provided these activities are designed to prevent youth alcohol-related problems.

(2) Alcohol-free environments for youth and their families that promote peer interactions, mutual support, and 12-step based assistance for youth with chronic or acute alcohol problems.

(3) Nonresidential and nonclinical services for youth and their families.

(4) Meeting space for Alcoholic Anonymous and other mutual self-help meetings that support youth recovery.

(5) Referral services for youth who require therapeutic interventions other than peer-based recovery services as a result of their consumption of alcoholic beverages.

(6) Positive, alcohol-free social and recreational activities for youth that support the peer-based recovery services.

(7) Environmental prevention activities, and educational and media programs that support youth recovery and counter messages that encourage youth alcohol consumption.

(8) Collaboration with other community organizations, and educational and training opportunities for youth that develop healthy lifestyles free of alcohol consumption.

1 (c) Participation in any activities or the use of any services
2 provided at the centers shall be voluntary. The centers shall
3 provide the services listed in subdivision (b) as a means to
4 encourage healthy lifestyles among participating youth. The
5 centers shall keep records of group activities, but may not keep any
6 records of the status or activities of any single individual. The
7 centers may not conduct drug testing, maintain individual case
8 files, or develop individual progress notes or treatment plans.
9 Individual sessions with participating youth provided by trainers,
10 peers, sponsors, or staff shall be for the purposes of promoting
11 healthy life choices or recovery plans, and may not include formal
12 therapeutic interventions. If a center determines that a youth
13 participant requires therapeutic intervention, it shall make a
14 referral to an appropriate community agency for formal diagnosis
15 and treatment.

16 11759.9. The department shall promulgate regulations to
17 ensure that the centers fulfill the functions described in Section
18 11759.8. The department shall review existing state regulations
19 and policies to determine whether state regulations or policies
20 hamper or inhibit the responsible operation of these programs. The
21 department shall issue a biennial report to the Legislature that
22 assesses the costs, quality, and effectiveness of the centers'
23 recovery and prevention programs. This report shall be sent to all
24 local health departments and be made broadly available to the
25 public.

26 11759.10. The centers established and maintained pursuant to
27 this chapter, including the administration, development, and
28 oversight of those centers, shall be fully supported from the fees
29 collected pursuant to Article 6 (commencing with Section 23500)
30 of Chapter 3 of Division 9 of the Business and Professions Code.
31 Notwithstanding the scope of activity mandated by this chapter, in
32 no event may this chapter be interpreted to require services
33 necessitating expenditures in any fiscal year in excess of the fees,
34 and earnings therefrom, collected pursuant to Article 6
35 (commencing with Section 23500) of Chapter 3 of Division 9 of
36 the Business and Professions Code. This chapter shall be
37 implemented only to the extent fee revenues pursuant to Article 6
38 (commencing with Section 23500) of Chapter 3 of Division 9 of
39 the Business and Professions Code are available for expenditure
40 for purposes of this chapter.



1 SEC. 3. *This act shall become operative only if no bill from the*
2 *2003–04 Regular Session of the Legislature that imposes or*
3 *increases any surtax on alcoholic beverages is chaptered, and, if*
4 *no such bill is chaptered, shall be operative only for each year*
5 *beginning on or after January 1, 2005, for which the Director of*
6 *Finance certifies pursuant to subdivision (b) that the prudent*
7 *reserve threshold has been met.*

8 (b) (1) *No later than November 1 of 2004, and on or before*
9 *each November 1 thereafter, the Director of Finance shall do both*
10 *of the following:*

11 (A) *Estimate whether, as of June 30 of the current fiscal year,*
12 *the amount in the Special Fund for Economic Uncertainties, as*
13 *established pursuant to Section 16418 of the Government Code,*
14 *will exceed 3 percent of General Fund Revenues for the current*
15 *fiscal year.*

16 (B) *Certify his or her estimate to the Governor and each house*
17 *of the Legislature.*

18 (2) *For purposes of this subdivision, the Director of Finance*
19 *certifies that the prudent reserve threshold has been met when he*
20 *or she certifies, pursuant to paragraph (1), that the amount in the*
21 *Special Fund for Economic Uncertainties as of June 30 of the*
22 *current fiscal year is estimated to exceed 3 percent of General*
23 *Fund revenues for the current fiscal year.*

24 SEC. 4. *No reimbursement is required by this act pursuant to*
25 *Section 6 of Article XIII B of the California Constitution because*
26 *a local agency or school district has the authority to levy service*
27 *charges, fees, or assessments sufficient to pay for the program or*
28 *level of service mandated by this act, within the meaning of*
29 *Section 17556 of the Government Code.*